

## Annex –St Matthew’s Academy Funding Agreement

### Exemptions in full

Annex 5 – redacted in full – Section 43  
 Annex 6A - redacted in full – Section 43  
 Annex 6B - redacted in full – Section 43  
 Annex 7 - redacted in full – Section 43

### Other clauses

1. Signature page – address deleted under Section 40 – personal information

Factors for disclosure of Annexes 5, 6A, 6B and 7	Factors for Withholding
<ul style="list-style-type: none"> <li>• Further the understanding of an increase participation in the public debate of issues concerning Academies</li> <li>• To ensure transparency in the accountability of public funds</li> </ul>	<ul style="list-style-type: none"> <li>• DfES’ commercial interests would be prejudiced</li> <li>• To reveal financial relationships between the SoS and the Academy Trust and others would prejudice the Department’s ability to obtain maximum value for money in future agreements</li> </ul>

### Reasons why public interest favours withholding information

Whilst releasing the majority of the FA will further the public understanding of Academies the whole of the FA cannot be revealed. If **annexes 5, 6A, 6B and 7** were to be revealed under the Freedom of Information Act the DfES’ commercial interests would be prejudiced, which could result in the less effective use of public money.

**ST MATTHEW ACADEMY  
LEWISHAM**

**FUNDING AGREEMENT**

**November 2005**

**The St Matthew Academy  
Lewisham**

**FUNDING AGREEMENT**

**THE ST. MATTHEW ACADEMY  
Lewisham**

**FUNDING AGREEMENT**

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## **INTRODUCTION**

- 1) This Agreement is made under section 482 of the Education Act 1996, as substituted by the Education Act 2002, between the Secretary of State for Education and Skills and The St. Matthew Academy hereafter "the Academy Trust".
- 2) The Academy Trust is a charitable company incorporated in England and Wales, limited by guarantee with registered no 05144640
- 3) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
  - a) "Accounting Officer" - clause 67;
  - b) "admission arrangements" - clause 4 of Annex 2;
  - c) "annual letter of funding" - clause 61;
  - d) "GAG" - clauses 50-57;
  - e) "capital expenditure" - clause 36;
  - f) "the Academy" - clause 7
  - g) "the Academy Trust " - clause 1;
  - h) "EAG" - clauses 58-59;
  - i) "Financial Handbook" - clause 68;
  - j) "financial year" - clause 62;
  - k) "Governing Body" - clause 10
  - l) "recurrent expenditure" - clause 35;
  - m) "School Development Plan" - clause 13-15
  - n) "start up period" - clause 55a;
  - o) "the company" - clause 2;
  - p) "the Memorandum and Articles" - Annex 1
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"LEA" means local education authority;

"headteacher" means the Principal of the Academy

references to "school" shall where the context so admits be references to the Academy.

"Agreement" means this agreement and its Annexes and a reference in the Agreement to a numbered clause or Annex is a reference to the clause or Annex of this Agreement bearing that number.

"Persons" includes a body of persons corporate or incorporate.

5) Questions arising on the interpretation of the arrangements in this funding agreement shall be resolved by the Secretary of State after consultation with the Academy.

6) Section 482 (1) of the Education Act 1996 as substituted states that -

"(1) The Secretary of State may enter into an agreement with any person under which -

(a) that person undertakes to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England with the characteristics mentioned in subsection (2), and such other characteristics as are specified in the agreement, and

(b) the Secretary of State agrees to make payments to that person in consideration of those undertakings."

## **LEGAL AGREEMENT**

7) In consideration of the Academy Trust undertaking to establish and maintain, and to carry on or provide for the carrying on, of an independent school to be known as the St Matthew Academy ("the Academy") and having such characteristics as are referred to in clauses 8 – 9 the Secretary of State agrees to make payments to the Academy Trust in accordance with the conditions and requirements set out in this Agreement. Any obligations imposed upon or powers given to the Academy by this agreement are also imposed upon the Academy Trust.

## **CHARACTERISTICS OF AN ACADEMY**

8) The characteristics of an Academy set down in section 482 (2) of the Education Act 1996 as substituted by the Education Act 2002, are that the school:

a) has a broad curriculum with an emphasis on a particular subject area, or particular subject areas, specified in the agreement, and

b) provides education for pupils of different abilities and who are wholly or mainly drawn from the area in which the school is situated.

## **CONDITIONS OF GRANT**

### **General**



9) Section 482(4) of the Education Act 1996 provides for the agreement to specify other conditions and requirements. These conditions in respect of the Academy are that:

- a) the school will be at the heart of its community, sharing facilities with other schools and the wider community;
- b) the Academy will be a full, active partner in borough-wide strategies for raising standards, including the 14 to 19 Strategy. The Academy will work collegially with other schools, colleges, HE providers and the LEA.;
- c) there will be assessment in the core subjects of the national curriculum at Key Stages 1, 2 and 3, and the opportunity to study for external qualifications as defined by section 96 of the Learning and Skills Act 2000;
- d) the admissions policy and arrangements for the school will be consistent with admissions law, and the DfES Codes of Practice for maintained schools;
- e) teachers will be required to have qualified teacher status; levels of pay and conditions of service for all employees will be the responsibility of the Governing Body;
- f) there will be an emphasis on the needs of the individual pupils including pupils with special educational needs (SEN) both those with and without statements of SEN;
- g) there will be no charge in respect of admission to the school and the school will only charge pupils where the law allows maintained schools to charge.

### **Governance**

10) The Academy will be governed by a governing body ("the Governing Body") who are the directors of the company constituted under the Memorandum and Articles of the Academy Trust. The Governing Body shall exercise its powers and functions with a view to fulfilling a largely strategic role in the running of the school and shall consider any advice given by the headteacher. The Governing Body may exercise its powers and fulfil its functions through its servants or agents.

11) Subject to the Memorandum and Articles, and to this Agreement, the Governing Body may regulate its own procedure and that of any of its committees.

### **Conduct**

12) The Academy shall be conducted in accordance with:

- a) the memorandum and articles of the company (attached as Annex 1 to this Agreement) which memorandum or articles shall not be amended by the Academy Trust without the explicit consent of the Secretary of State, such consent not to be unreasonably withheld;
- b) all provisions by or under statute which confer rights or impose obligations on Academies;

- c) the terms of this Agreement

### **Development Plan**

- 13) The Academy shall draw up a School Development Plan each year in accordance with a format and timetable to be advised by the Secretary of State. The School Development Plan shall, in particular:
- a) in accordance with a format and timetable to be advised by the Secretary of State set out plans for ensuring that all pupils are supported to reach the highest standards of which they are capable;
  - b) describe the Academy's proposals to work with other schools and with the wider community.
- 14) The Academy shall set such targets in areas to be specified by the Secretary of State each year. The target areas for the initial year shall be:
- a) percentage of pupils achieving five or more GCSEs at grades A\* - C; and
  - b) percentages of pupils achieving level 2 or above at Key Stage 1 in English and Maths; level 4 or above at Key Stage 2 in English, Maths and Science; level 5 or above at Key Stage 3 in English, Maths, Science and ICT.
- 15) The Academy shall consult the Secretary of State and the LEA in whose area it is situated each year before setting these targets and shall take into account but not be bound by any comments received from the Secretary of State and/or the LEA. The Academy shall set its targets in accordance with the timetable for target setting which applies to maintained schools.

### **Pupils**

- 16) The Academy is an all ability and inclusive school. The arrangements for:
- a) the admission of pupils to the Academy; and
  - b) the admission of and support for pupils with Special Educational Needs and with disabilities (for pupils who have and who do not have statements of Special Educational Needs) (including the appointment of a responsible person);

are set out in Annexes 2 and 3 to this Agreement, together with the arrangements for making changes to such arrangements, including the requirement to secure the consent of the Secretary of State, such consent not to be unreasonably withheld. Arrangements for pupil exclusions are set out in Annex 4.

### **Teachers and other staff**

- 17) The Academy Trust shall not engage anyone under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils ("specified work") who is not -

a) a qualified teacher within the meaning of regulations made under section 132 of the Education Act 2002 and registered with full registration with the General Teaching Council for England; or

b) otherwise eligible to do specified work in a maintained school under the Education (Specified Work and Registration) (England) Regulations 2003 (SI 2003/1663).

18) The Governing Body shall ensure that all teachers employed at the Academy have access to the Teachers Pension Scheme and, in so doing, will comply with the statutory provisions underlying the scheme.

19) The Governing Body shall ensure that all employees other than teachers have access to the Local Government Pension Scheme.

20) It shall be the responsibility of the Governing Body to agree levels of pay and conditions of service with its employees, and to determine and employ such numbers of staff as may be appropriate. The Governing Body shall approve policies for:

a) staffing structure, and staff remuneration; and

b) staff discipline and performance management.

#### **Curriculum, curriculum development and delivery and RE and collective worship**

21) The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced with an emphasis on business and enterprise. The core subjects of the National Curriculum must be taught to all pupils in years 1 to 11 except where, in the opinion of the principal, it is inappropriate for an individual pupil or groups of pupils to be taught one or more of those subjects.

22) The Academy shall make provision for the teaching of Religious Education and for a daily act of collective worship.

23) Subject to clause 25, provision shall be made for Religious Education to be given to all pupils at the Academy in accordance with the tenets of the Roman Catholic Church.

24) Subject to clause 25, the Academy shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if it were a foundation school with a religious character or a voluntary school, and as if references to 'the required collective worship' were references to collective worship in accordance with the tenets and practices of the Roman Catholic Church.

25) Section 71(1) - (4) of the School Standards and Framework Act 1998 shall apply as if the Academy were a community, foundation or voluntary school, and as if references to "religious education" and to "religious worship" in that section were references to the Religious Education and Religious Worship provided at the

Academy in accordance with clauses 23 and 24 respectively.

- 26) The Academy shall have regard to any guidance issued by the Secretary of State on Sex and Relationship Education to ensure that children are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children.

### **Assessment**

- 27) The Academy shall register with the Qualifications and Curriculum Authority for the purposes of arranging for all eligible pupils to take part in the national curriculum assessment system at the end of the Key Stages 1, 2 and 3 programmes of studies. This includes arranging for pupils to take the English, Maths and Science tests and for teacher assessments of pupils' performance in those subjects.
- 28) The Academy may not offer courses which lead to external qualifications, as defined in section 96 of the Learning and Skills Act 2000, unless they are either approved under section 98 of that Act, or, in respect of individual pupils, groups of pupils or all pupils in Key Stage 4, the Secretary of State gives specific consent for such courses to be offered.

### **School meals**

- 29) The Academy shall, if requested to do so by or on behalf of any pupils at the Academy, provide school lunches for those pupils unless it would be unreasonable for them to do so. Subject to the provisions of clause 30 charges may be levied for lunches.
- 30) In relation to a pupil who is himself or whose parents are in receipt of benefits mentioned in section 512(3)B of the Education Act 1996 (or equivalent provision governing the entitlement to free school lunches of pupils at maintained schools), the Academy shall ensure that a school lunch is provided for such a pupil, which shall be provided free of charge.

### **Charging**

- 31) Sections 402 (Obligation to enter pupils for public examinations), 450 - 457 (charges), 459 (regulations about information about charges and school hours) and 460 (voluntary contributions), 461 (recovery of sums as civil debt) - 462 (Interpretation re charges) of the Education Act 1996 shall be deemed to apply to the Academy with the following modifications:
- a) references to any maintained school shall be treated as references to the Academy;
  - b) references to registered pupils shall be treated as references to registered pupils at the Academy;
  - c) references to the governing body or the local education authority shall, in each case, be treated as references to the governing body of the Academy;
  - d) the charging and remissions policies required to be determined under section 457, and any amendment thereto, shall require the approval of the Secretary of State; and
  - e) the Academy may charge persons who are not registered pupils at the Academy

for education provided or for facilities used by them at the Academy.

### **Provision of Information to parents and others**

32) The Academy shall publish a prospectus annually and shall send this on request (free of charge) to parents of pupils at the Academy and to the Secretary of State; and shall make it available for inspection by other persons at the Academy. The prospectus shall include details of admission arrangements and, except insofar as such information is published in a document known as a School Profile (which would accompany the prospectus), the following:

- a) details of the curriculum offered, of assessment arrangements and of the results of attainment tests and public examinations at school level, but this shall not include details of individual pupils' attainment and examination results;
- b) details of any religious affiliation of the school; policy on providing for children with SEN; arrangements for pupils with disabilities (as specified in Annex 3 to this agreement); pupil absence rates; and destination of school leavers; and
- c) such other information as the Governing Body may determine;
- d) any further information as set out in Schedule 3 of the Education (School Information) (England) Regulations 2002 (SI 2002/2897) as applies to maintained schools.

33) The prospectus shall be published in the school year immediately preceding the school year to which it relates and shall be published at least six weeks before the closing date for applying for a place.

### **GRANTS TO BE PAID BY THE SECRETARY OF STATE**

#### **General**

34) The Secretary of State shall pay grants under this Agreement towards capital and recurrent expenditure. Except with the Secretary of State's prior agreement, the Academy Trust shall not budget for expenditure in any year in excess of expected income. The Academy Trust shall not enter into commitments which are likely to have substantial implications for future levels of grant, or for the period for which grant may be required. No decision by the Trust shall commit the Secretary of State to paying any particular amount of grant.

35) "Recurrent expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within the categories of capital expenditure set out at clause 36. The Secretary of State shall pay two separate and distinct grants under the Agreement in respect of recurrent expenditure: General Annual Grant (GAG) and Earmarked Annual Grant (EAG).

### **CAPITAL GRANT**

36) "Capital expenditure" means expenditure on:

- a. the acquisition of land and buildings;
- b. the erection, enlargement, improvement or demolition of any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
- c. the installation of electrical, mechanical or other services;
- d. the purchase of vehicles and other self-propelled mechanical equipment;
- e. the installation and equipping of premises with furnishings and equipment, other than necessary replacements, repairs and maintenance due to normal wear and tear;
- f. the installation and equipping of premises with computers, networking for computers, operating software and information and communication technology equipment, other than necessary updates or necessary replacements, repairs and maintenance due to normal wear and tear;
- g. the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation;
- h. works of a permanent character other than the purchase or replacement of minor day-to day items;
- i. any major repairs or replacements which are specified as constituting capital expenditure in any grant letter relating to them;
- j. such other items (whether of a like or dissimilar nature to any of the foregoing) of a substantial or enduring nature as the Secretary of State may agree shall constitute capital expenditure for the purposes of the Agreement;
- k. all professional fees properly and reasonably incurred in connection with the provision of any of the above;
- l. VAT and other taxes payable on any of the above.

"Capital grant" means grant paid under the Agreement in respect of capital expenditure.

37) The Academy Trust has agreed with the Secretary of State the Capital Cost Spreadsheet attached as Annex 5 to the Agreement. The Capital Cost Spreadsheet shows the limit of the capital costs which the parties have agreed the Academy Trust may incur in order to establish the Academy. Annex 5 includes capital costs incurred prior to the execution of the Agreement and capital costs to be incurred after execution of the Agreement and before the Academy opens. The Academy opens on the first day that its pupils attend school at the Academy.

38) Annex 6A of the Agreement shows the capital expenditure incurred before execution of the Agreement. The Academy Trust has agreed with the Secretary of State the

Capital Cash Flow Programme attached as Annex 6B to the Agreement which shows the projected cashflow of capital expenditure by the Academy Trust after execution of the Agreement.

- 39) Both parties recognise that as the project develops it may be necessary to revise costs in the Capital Cost Spreadsheet (Annex 5) and to move costs between spreadsheet elements in order to ensure that the project remains within its approved budget. Where the Academy Trust wishes to make such adjustments of over £10,000, it must submit the requested adjustment with the reasons for it to the Secretary of State for approval.
- 40) Where the Academy Trust foresees a significant change in the timing of capital expenditure, that is a change to the figures in Annex 6B of over £100,000, a revised Capital Cash Flow Programme must be submitted to the Secretary of State for approval. The Academy Trust must ensure that no pattern of spending is allowed to develop which cannot be contained within the approved capital expenditure limits. The Secretary of State must be informed immediately if any danger of any of the capital costs set out in Annex 5 being exceeded is foreseen so that steps can be taken to rectify the situation and ensure that the project remains within its capital cash limit.

#### **Capital Expenditure Necessary to Establish the Academy**

- 41) The Secretary of State and the Academy Trust hereby agree that the Academy will be constructed/refurbished in accordance with the architect's drawings and specification on materials set out at Annex 6D of the Agreement and that:
- a. the amount of capital expenditure necessary to establish the Academy is £30, 856,162 ("the Cash Limit"). The Cash Limit includes capital expenditure incurred for the purposes of or in connection with the establishment of the Academy prior to the date of this agreement as described in Annexes 6A and 6B;
  - b. the Secretary of State will bear £28,756,162 of the cash limit and the Academy Trust will bear £2,100,000 of the cash limit;
  - c. the arrangements (including timing) for payments for these costs are set out in clause 44 and Annex 6B of the Agreement. Payment by the Secretary of State will be dependent on his approval of the matters set out in Annex 7 to the Agreement;
  - d. if the costs finally incurred for the purposes set out in clause 41(a) above are less than the cash limit, the costs borne by the Secretary of State shall be reduced accordingly and the Academy Trust shall pay the same amount as indicated in clause 41(b);
  - e. if at any stage it appears that the costs incurred for the purposes set out in clause 41(a) are likely to exceed the cash limit, the parties to the Agreement shall urgently consider how to reduce those costs, if necessary by amending the specification of the Academy;

- f. if the costs incurred for the purposes set out in clause 41(a) exceed the cash limit these additional costs shall be the responsibility of the Academy Trust except that the Secretary of State shall contribute up to 80% of any agreed necessary additional costs the need for which could not reasonably have been foreseen at the time the cash limit was set;
- g. if the parties agree that additional capital expenditure to establish the Academy, other than that specified in clause 41(a), may be incurred then the parties shall divide such additional costs between them in such proportions as may be agreed between them. No such additional expenditure is to be incurred without prior agreement in writing between the parties.

### **Other Capital Expenditure**

42) Any capital expenditure during the life of this Agreement beyond the cash limit referred to in clause 41(a) on which grant payments are sought from the Secretary of State will require the specific agreement of the Secretary of State. Such consent shall not be unreasonably withheld. Unless the Academy Trust undertakes to meet such capital costs entirely itself such approved costs as are incurred will be shared in a proportion to be agreed between the Secretary of State and the Academy Trust in relation to, and having regard to the nature of, each such capital project. Notwithstanding the preceding sentence, the proportion contributed by the Secretary of State will not be expected to exceed the proportion mentioned in clause 41(f) save that any capital expenditure required in order to meet the requirements of legislation enacted or made after the date of this Agreement shall be funded at least to the percentage referred to in clause 41(f) by the Secretary of State.

### **Conditions on Capital Grant**

- 43) Any payment of capital grant under the Agreement is subject to the fulfilment of the following conditions:
- a. such grants are used to provide accommodation constructed and equipped to standards agreed by the Secretary of State as described in Annex 7, or to defray other expenditure approved by the Secretary of State;
  - b. the payment of such grants is subject to the Academy Trust certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place.

### **Arrangements for Payment of Capital Grant**

44) Capital grant will be paid monthly by the Secretary of State to the Academy Trust. Each month the Academy Trust must submit a claim for grant to the Secretary of State in the notified format with supporting invoices and certificates as requested by the Secretary of State from time to time. Capital grant will be paid within 21 days from the day on which a claim for grant is received if the claim is in the proper format, supported by the appropriate documentation and the conditions on its



payment set out at clause 43 are complied with. If a dispute arises as to whether a grant claim is acceptable or not both parties undertake to attempt to resolve it in good faith.

### **Implementation Grant**

- 45) The Secretary of State shall pay grant (known as "implementation grant") towards the establishment of the Academy. Implementation grant covers the recurrent expenditure that the parties agree is necessary to establish and open the Academy.
- 46) The Academy Trust shall prepare and submit to the Secretary of State for approval an Implementation Budget showing recurrent costs to be incurred before the Academy opens and for which grant is sought. The approved Implementation Budget Cashflow is attached as Annex 6C to the Agreement and shows the limits of the recurrent expenditure and the projected cashflow which the parties have agreed the Academy Trust is permitted to incur in order to establish the Academy.
- 47) Both parties recognise that as the project develops it may be necessary to revise individual costs in the Implementation Budget and to move costs between budget headings in order to ensure that the project remains within its approved budget. Where the Academy Trust wishes to make such an adjustment of over £10,000, the reason for the change and a revised Implementation Budget must be submitted to the Secretary of State for approval.

### **Arrangements for Payment of Implementation Grant**

- 48) The Secretary of State will pay implementation grant in accordance with the approved Implementation Budget. Payments will be made by monthly instalments. The Academy Trust shall submit to the Secretary of State by the 10<sup>th</sup> of each month a grant claim in a form specified by the Secretary of State. If the grant claim is acceptable the Secretary of State undertakes to pay the amount due by the 25<sup>th</sup> of the month. If a dispute arises over whether a grant claim or part of it is acceptable, both parties undertake to attempt to resolve the dispute in good faith.
- 49) Any amount of approved implementation grant in respect of which the expenditure has not been incurred by the Academy Trust, by the date on which the Academy opens, will lapse and no implementation grant will be payable in respect of that part of the approved implementation budget. Any amount of implementation grant which has been paid but remains unexpended on relevant expenditure by the date on which the Academy opens will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy after it has opened. Any amount of implementation grant which is found to have been used on ineligible expenditure will, without prejudice to any other mode of recovery, be taken into account in determining the total amount of grant to be paid to the Academy.

### **General Annual Grant**

- 50) General Annual Grant will be paid by the Secretary of State to the Academy Trust in order to cover the normal running costs of the Academy. These costs will include, but are not limited to:

- a. teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);
- b. non-teaching staff salaries and related costs (including educational support staff, administrative and clerical staff and manual and premises related staff);
- c. employees' expenses;
- d. the purchase, maintenance, repair and replacement of teaching and learning materials and other educational equipment including books, stationery, ICT equipment and software, sports and laboratory equipment and materials, other supplies and services;
- e. examination fees;
- f. repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
- g. insurance;
- h. medical equipment and supplies;
- i. staff development (including in-service training);
- j. curriculum development;
- k. the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them) and discretionary grants to pupils to meet the cost of pupil support, including support for pupils with special educational needs or disabilities (taking account of the fact that separate additional money will be available for pupils with statements of special educational needs);
- l. administration;
- m. establishment expenses and other institutional costs.

51) Subject to clauses 54 to 56, GAG for each financial year of the Academy Trust will be the total of the following areas of funding;

- a. Formula Funding: Funding comparable to the level of funding which would be provided through the funding formula of the LEA in whose area the Academy is situated, to a maintained school which had all of the Academy's relevant characteristics, including its number of pupils;

- b. LEA Holdback: Funding representing a proportion of the LEA Education Budget money which the LEA would be able to retain, from the non-delegated elements of the Schools Block and the relevant items in the LEA Block, if the Academy were a maintained school. The proportion which this funding will represent will be based on the elements of the LEA's Section 52 Budget Return which are relevant to the Academy.
- c. Specialist Schools Allowance: Funding equivalent to that which a maintained school with the Academy's characteristics would receive in respect of their participation in the specialist schools programme;

52) The GAG for the Academy will also include the following areas of funding for as long as they are necessary and equivalent funding is provided to maintained schools:

- a. LGPS contributions: Whilst it is necessary for the Academy to incur extra costs in order to be a member of the LGPS scheme due to having a small number of employees partaking in the scheme, the Secretary of State will pay an extra amount of grant in respect of these costs each financial year. Both parties acknowledge that new ways of working are being explored to lessen these costs and if these are successful this element of GAG will reduce or cease accordingly;
- b. School Standards Grant: Whilst this direct grant for maintained schools (Direct Grant to Schools) is paid by DfES, the Academy will receive an equivalent amount as part of its GAG each financial year;
- c. Teachers Threshold Payments: Whilst maintained schools receive a separate grant from DfES in respect of teachers' threshold payments, the Academy will receive funding on the same basis as maintained schools for all of its teachers which are entitled to threshold payments.
- d. Relevant New Grants for Maintained Schools: Where the Secretary of State starts to pay new grants (which are not Standards Fund grants) for specific programmes in maintained schools which are relevant to Academies, the Academy will receive funding on a similar basis.

53) The basis of the pupil number count for the purposes of determining the Academy's GAG will be the Governing Body's estimate in November for numbers on roll in the following September. The basis of the GAG calculation, including any annual re-pricing which may be necessary, will be set out in the annual letter of funding except that the level of Teachers Threshold Payments will not be included in the letter and will depend on the information provided by the Academy in that financial year regarding how many teachers are entitled to the payments and at what level.

54) The Secretary of State reserves the right to make in year adjustments to the level of GAG payable to the Academy Trust in the following circumstances:

- a. pupil numbers are 10% or more below estimates;
- b. pupil numbers are 5% or more above estimates;

- c. additional grants relevant to the Academy are made by the Secretary of State to maintained schools.

The Academy Trust should notify the Secretary of State if at any stage in the year pupil numbers vary from the estimates by the amounts set out in clause 54(a) or (b). The Secretary of State will base his assessment of the variation of pupil numbers on information provided by the Academy Trust and data from the school census' in September and January each year. The adjustments to the level of GAG may be in respect of any element of the GAG.

55) The Secretary of State recognises that:

- a. in relation to Academies which open with intakes representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely to be sufficient to meet the Academy's needs in the years before all age groups are present at their planned size (the "start-up period") because of a lack of economies of scale. The Secretary of State undertakes to pay an appropriately larger GAG in the start-up period than would be justified solely on the basis of the methods set out in clauses 51 and 52, in order to enable the Academy to operate effectively. The Academy will make a bid to the Secretary of State for this addition to GAG, based upon need and providing appropriate supporting evidence;
- b. in relation to Academies which open with pupils transferred from one or more LEA-maintained schools which have closed, additional GAG resources will be required to take account of transitional costs including any costs associated with supporting the integration of pupils from the closed schools and - where necessary - to offer a dual curriculum.

56) During the start-up period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 51 and 52 to allow the Academy to:

- a. purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials;
- b. meet the costs associated with the recruitment and induction of additional teaching and other staff.

After the start-up period these costs will be met through the ordinary GAG.

57) The Secretary of State recognises that if he serves notice of intention to terminate this Agreement under clause 88, the intake of new pupils during the 7 year notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. The Secretary of State undertakes to pay a reasonable and appropriately larger GAG in the notice period

than would be justified solely on the basis of the methods set out in clauses 51 and 52, in order to enable the Academy to operate effectively.

### **Earmarked Annual Grant**

58) Earmarked Annual Grant shall be paid by the Secretary of State to the Academy Trust in respect of either recurrent or capital expenditure for such specific purposes as may from time to time be agreed between the Secretary of State and the Academy Trust and as described in the relevant funding letter. The Academy is free to determine how best to use each of its EAGs within the scope of the grant set out in the relevant funding letter.

59) Where the Academy Trust is seeking a specific EAG in relation to any financial year, it shall submit a letter outlining its proposals and the reasons for its request to the Academies Division, Sanctuary Buildings, Great Smith Street, London SW1P3BT, by 15<sup>th</sup> February preceding the financial year in question.

### **Arrangements for Payment of GAG and EAG**

60) The Secretary of State shall notify the Academy Trust in December preceding the start of each financial year of the GAG and EAG figures which, subject to Parliamentary approval, the Secretary of State plans for that year and of the assumptions and figures on which these are based.

61) The amount of GAG for an Academy financial year will be determined annually by the Secretary of State. The amount of GAG will be notified to the Academy Trust in a funding letter not later than 1 April preceding that financial year ("the annual letter of funding"). The annual letter of funding will not include the amount that the Academy Trust will receive in respect of Teacher Threshold Payments whilst that grant is paid as a separate payment that will be notified later in the year on a date to be agreed. Amounts of EAG will be notified to the Company according to an agreed programme.

62) For the purposes of this Agreement, the Academy's financial year shall be deemed to run from September to August, in order to align it to the school academic year. The Secretary of State undertakes to pay GAG in monthly instalments on or before the twenty fifth day of each month, each such instalment to fund the salaries and other payroll costs for the relevant month of all monthly paid employees and all other costs payable during the next following month. The detailed arrangements for payment will be set out in the annual letter of funding.

### **Other relevant funding**

63) The Secretary of State shall meet a proportion of the costs arising from the inclusion of Academies in the Schedules to the Redundancy Payments (Continuity of Employment in Local Government) (Modification) Order 1999. The Secretary of State shall meet the costs of the employee's prior eligible service and the Academy Trust shall meet the costs of service in the Academy. The Academy shall seek the Secretary of State's consent for these redundancies, such consent not to be unreasonably withheld, before committing to the redundancies.

64) The Secretary of State may meet costs incurred by the Academy Trust in connection with the transfer of employees from a predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 1981. Payment of grant in respect of such costs is to be agreed between the parties on a case by case basis and the Academy Trust shall not budget on the basis that it will receive any grant in respect of such costs unless it is specifically notified that such grant will be paid.

65) The Academy Trust may also receive funding from LEAs in respect of the provision detailed in statements of special educational needs for pupils attending the Academy in accordance with the provisions of Section 483A of the Education Act 1996 and regulations made under that section. The Academy shall ensure that all provision detailed in statements of SEN is provided for such pupils.

66) The Academy Trust should also receive funding from the LEA in whose area it is located, from the Standards Fund. The scheme under which the Standards Fund money is to be distributed by the Secretary of State to LEAs and schools will permit LEAs to receive grants on behalf of Academies in the same way as they can do for maintained schools. The Academy must use any grants received under the Standards Fund in accordance with any conditions specified in relation to that grant. Grants paid to the Academy Trust from the Standards Fund are not paid under this Agreement.

#### **Financial and Accounting Requirements**

67) The headteacher shall be the Academy's Accounting Officer. The Accounting Officer will be personally responsible to the Trustees for ensuring regularity and propriety, and for the economic, efficient and effective use of resources (i.e. ensuring value for money), and administration of the financial affairs of the Academy. The Accounting Officer may delegate or appoint others, such as a Finance Director, to assist in carrying out these responsibilities.

68) The Academy shall abide by the provisions within the Academies Financial Handbook, as published by the Department for Education and Skills and amended from time to time, which sets out in detail provisions for the financial management of the Academy including guidance on financial systems and controls and accounting and reporting requirements.

69) The formal budget plan must be approved each year by the Governing Body.

70) Any payment of grant by the Secretary of State is subject to his being satisfied as to the fulfilment by the Academy of the following conditions:

a) that in its conduct and operation the Academy shall apply financial and other controls which conform with the requirements both of propriety and of good financial management;

b) that arrangements have been made to maintain proper accounting records and that statements of income and expenditure and balance sheets may be produced in such form and frequency as the Secretary of State may from time to time reasonably direct;

- c) that such financial statements are published at the end of each financial year (as defined in clause 62) in such form and manner as the Secretary of State may reasonably direct and a copy sent to him by 31 December each year. These should carry an audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the Academy affairs and that the grants were used for the purposes intended;
  - d) that the Academy prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 1985;
  - e) that a statement of the accounting policies used is sent to the Secretary of State with the financial statements;
  - f) that the Academy insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of any subsisting leases in respect of the leasehold interest of the site upon which the Academy is situated;
  - g) (i) that the Academy prepares and files with the Charity Commission annual accounts prepared in accordance with the Statement of Recommended Practice;  
(ii) the governing body shall comply with their obligation under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual report and its transmission to the Charity Commissioners;
  - h) The Governing Body shall secure that the Academy's accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State.
- 71) In addition, and at his expense, the Secretary of State may instruct auditors to report to him on the adequacy and effectiveness of the accounting systems and internal controls to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Academy.
- 72) The books and accounts and all relevant records, files and reports of the Academy including those relating to financial controls, shall be open at all reasonable times to officials of the Department for Education and Skills and the National Audit Office and to contractors retained by the Department for Education and Skills or the National Audit Office for inspection or the carrying out of value for money studies; and the Academy shall secure that those officials and contractors are given reasonable assistance with their enquiries. For the purposes of this clause, relevant means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.
- 73) The Governing Body shall submit indicative budgets to the Secretary of State not later than by 15 February before the start of each Academy financial year. Such budgets shall set out clearly the prospective income and expenditure of the Academy and shall differentiate, and give adequate details of:
- a) a statement of expected income for that year including cash donations and gifts in kind from sources other than GAG, EAG and grants from the Secretary of

State towards capital expenditure, distinguishing between income from public funds including the national lottery and income from other sources;

- b) a statement of proposed recurrent expenditure for that financial year;
- c) a statement of proposed capital expenditure for that financial year.

74) With the exception of grant covered by clause 74c below, the Academy will be permitted to carry forward savings from GAG from one year to the next:

- a) equivalent to 2% of the total GAG received in the preceding year, which it may use for any of the purposes for which GAG is paid including all expenditure permitted under sub-clause (b) below;
- b) equivalent to a further 10% of the total GAG received in that year, or such higher figure as may from time to time be agreed, which it may use on the upkeep and improvement of premises including the costs of equipment and routine repairs and maintenance and on capital expenditure.
- c) Any additional grant provided over and above that set out in clause 51 and 52 and made in accordance with clause 55 and 56, may be carried forward without limitation or deduction until the start up period or the circumstances set out in clauses 55 and 56 come to an end.

75) Any savings of GAG not allowed under clause 74 will be taken into account in the payment of subsequent grant.

76) The Governing Body may also accumulate funds from private sources or public sources other than grant from the Secretary of State for application to the benefit of the Academy as it sees fit. Any surplus arising from private sources or public sources other than grant from the Secretary of State shall be separately identified in the balance sheet.

77) The Academy Trust shall not, without the prior written consent of the Secretary of State which shall not be unreasonably withheld or delayed:

- a) give any guarantees, indemnities (except such as are given in normal contractual relations) or letters of comfort;
- b) write off any debts or liabilities owed to it above a value to be set out in the annual funding letter, nor offer to make any ex gratia payments;
- c) make any freehold sale or purchase; or
- d) grant or take up any leasehold or tenancy agreement for a term exceeding three years.

78) Each discovered loss of an amount exceeding the amount set out in the annual letter of funding, and arising from suspected theft or fraud, shall be reported by the Governing Body to the Secretary of State at the earliest opportunity.

79) It is the responsibility of the Governing Body to ensure that the Academy balances its budget from year to year.



## **Borrowing Powers**

80) The Academy Trust shall not run an overdraft beyond such amount (to cover irregularities in cash flow) as may from time to time be both approved by the Academy Trust in General Meeting and in writing by the Secretary of State, such approval by the Secretary of State not to be unreasonably delayed or withheld, and subject to any conditions he may reasonably impose. The Academy Trust shall not borrow except with the written consent of the Secretary of State against future years' current grant, or by using as collateral assets purchased wholly or partly out of monies provided by the Secretary of State. The Academy Trust shall not borrow against land and buildings transferred to it for less than the market price from an LEA or trustees of a voluntary aided school. Provided always that nothing in this clause shall prevent the Academy Trust from borrowing (whether by way of overdraft or otherwise) prior to the opening of the Academy nor from borrowing where such borrowing is made necessary by the failure of the Secretary of State to make in a timely fashion payments (whether of GAG or EAG or otherwise) agreed to be made by him under this Agreement.

## **DISPOSAL OF ASSETS**

81) Where the Academy Trust acquires assets for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to assets transferred at nil or nominal consideration and which were previously used for the purposes of a school or where transferred from an LEA; the value of which assets shall be disregarded.

82) The sale, or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by an Academy Trust shall require the consent of the Secretary of State where:

- a) the Secretary of State paid capital grant in excess of £20,000 for the asset; or
- b) the asset was transferred to the Academy Trust from a Local Education Authority for no or nominal consideration

such consent not to be unreasonably withheld or delayed. Furthermore, reinvestment exceeding £1m or with other special features will be subject to Parliamentary approval.

83) This clause applies in the event, during the lifetime of this agreement, of the disposal of a capital asset for which capital grant of any amount was paid, where the asset was acquired by the Academy Trust at market value. In this event, the Academy Trust shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of State, unless the Secretary of State agrees to some or all of the proceeds being retained by the Academy Trust for its charitable purposes.

84) This clause applies in the event, during the lifetime of this agreement, that the Secretary of State consents to the disposal of an asset which was transferred to the Academy Trust from a Local Education Authority for no or nominal consideration. In

this event the Secretary of State may give consent on the basis that all or part of the proceeds of the disposal should be made over to the Local Education Authority from which the asset was transferred, taking into account the amount of the proceeds to be reinvested by the Academy Trust. The Secretary of State will have regard to any representations from the Academy Trust and the Local Education Authority from which the asset was transferred before giving a consent under this clause.

85) Except with the consent of the Secretary of State, the Academy Trust shall not dispose of assets for a consideration less than the best that can reasonably be obtained.

## **TERMINATION**

86) Subject to prior termination of this agreement under clauses 88 - 94, the Secretary of State shall continue payments in respect of current expenditure for a period of not less than seven years.

87) Either party may give seven years written notice of its intention to terminate this Agreement, such notice to expire on 31 August in any year.

88) If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 8 or that the conditions and requirements set out in clauses 9 - 33 are not being met, or is otherwise in breach of the provisions of this Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

89) Any such notice shall be in writing and shall:

- a) state the grounds on which he considers the Academy no longer has the characteristics set out in clause 8 or is not meeting the conditions and requirements of clauses 9 - 33 or is otherwise in breach of the provisions of this Agreement;
- b) specify the measures needed to remedy the situation;
- c) specify the date by which these measures are to be implemented; and
- d) state the form in which the Governing Body is to provide its response and the date by which it must be provided.

90) If no response is received by the date specified in clause 89d, the Secretary of State may give the Governing Body 12 months, or such lesser period as he considers appropriate in the circumstances, written notice of his intention to terminate this Agreement.

91) If a response is received by the date specified in clause 89d, the Secretary of State shall consider it, and any representations made by the Governing Body, and shall, within 3 months of its receipt, indicate that:

- a) he is content with the response and that the measures which he specified are being implemented; or
- b) he is content, subject to any further measures he specifies being implemented

by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

- c) he is not satisfied, that he does not believe that he can be satisfied, and that he will proceed to terminate the Agreement.

92) In the circumstances of clause 91c the Secretary of State shall notify the Governing Body why he believes that he cannot be satisfied and, if so requested by the Governing Body within thirty days from such notification, he shall meet a deputation from the members and governors of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not have the characteristics set out in clause 8 or does not and will not meet the conditions and requirements set out in clauses 9 - 33 or does not and will not otherwise comply with the provisions of this Agreement, he shall give the Governing Body twelve months written notice of his termination of this Agreement.

93) If the Secretary of State has cause to serve a notice on the Governing Body under s.165 of the Education Act 2002 and the matters specified in the notice are not remedied, the period of twelve months notice referred to in clause 90 may be shortened to a period deemed appropriate by the Secretary of State.

94) The Secretary of State may at any time by notice in writing terminate this Agreement forthwith on the occurrence of any of the following events:-

- a) the Academy Trust calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
- b) the Academy Trust proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986; or
- c) the Academy Trust is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this Clause. Section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. The Academy Trust shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Academy; or
- d) the Academy Trust has a receiver (and manager with the exception of Receivers and Managers appointed by the Charity Commission under the Charities Act 1993 or any subsequent re-enactment of that Act), administrator or administrative receiver appointed over all or any part of its undertakings, assets or income; or
- e) any restraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within fifteen Business Days; or
- f) the Academy Trust has passed a resolution for its winding up; or
- g) the Academy Trust has a petition presented to any Court for its winding up or for

an administration order; or

- h) the Academy has ceased to operate as a Academy (except where such cessation occurs temporarily by reason of an event of Force Majeure).

"Business Days" in this clause, means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday within the meaning of the Banking and Financial Dealings Act 1971.

### **Effect of Termination**

- 95) In the event of termination of this agreement, however occurring, the school shall cease to be an Academy.
- 96) If the Secretary of State terminates this Agreement for reasons other than that the Academy no longer has the characteristics set out in clause 8, or is no longer meeting the conditions and requirements set out in clauses 9 - 33 or is otherwise in breach of the provisions of this Agreement, the Secretary of State shall indemnify the Academy Trust.
- 97) The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Academy Trust, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.
- 98) The amounts and categories of expenditure incurred by the Academy Trust in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Academy Trust include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.
- 99) In the event of the termination of this Agreement however occurring the Secretary of State shall procure that his nominee shall resign as a member of the Academy Trust and shall co-operate in making any associated amendments to the Academy Trust Articles of Association.
- 100) Subject to clause 101, on the termination of this agreement, however occurring, the Academy Trust shall repay to the Secretary of State a sum in respect of the capital contribution made by him under clauses 41-42 above. The amount to be repaid to the Secretary of State shall be a percentage of the value of the assets belonging to the Academy Trust at the date of termination (or by agreement with the Secretary of State) at the date of subsequent disposal of those assets, such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.
- 101) The Secretary of State may waive in whole or in part the repayment due under the above clause if:
- a) The Academy Trust is unable to realise the market value of land or premises because they are returned to the Local Education Authority at less than market value; or

- b) The Academy Trust obtains his permission to invest the proceeds of sale for its charitable objects; or
  - c) The Secretary of State directs all or part of the repayment to be paid to the Local Education Authority.
- 102) If any land or premises of the Academy were acquired from a Local Education Authority by a scheme under Schedule 35A of the Education Act 1996 or otherwise at less than the market price, and the Secretary of State does not make a scheme as provided for in Schedule 35A (Paragraph 8) of the Education Act 1996, the Academy Trust may dispose of its interest in that land or premises but only with the consent of the Secretary of State, who shall have regard to any representations from the Academy Trust and the Local Education Authority from which the land was transferred before giving or withholding that consent.

### **GENERAL**

- 103) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on, inter alia, the Academy's:
- a) curriculum;
  - b) arrangements for the assessment of pupils;
  - c) targets, including those set in accordance with the provisions of clause 14;
  - d) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;
  - e) class sizes;
  - f) outreach work with other schools and the local community;
  - g) operation of the admission criteria and over subscription arrangements for the Academy including numbers of applications for places and the number and characteristics of pupils accepted for admission;
  - h) numbers of pupils excluded (including permanent and fixed term exclusions);
  - i) levels of authorised and unauthorised attendance;
  - j) the Academy's charging and remissions policies and the operation of those policies;
  - k) organisation, operation and building management;
  - l) financial controls; and
  - m) membership and proceedings of the governing body.
- 104) The Governing Body shall make such information available to the Secretary of State, in such form and manner and at such times as may reasonably be required. The Secretary of State shall provide the Governing Body with such information as

they may reasonably require of him for the running of the Academy.

### **Access by the Secretary of State's Officers**

105) The Governing Body shall allow access to the premises of the Academy at any reasonable time to DfES officials. All records, files and reports relating to the running of the Academy shall be available to them at any reasonable time. The Governing Body shall provide the Department in advance with papers relating to all meetings of the Governing Body of the Academy and of members of the Academy. Two DfES officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of the Academy's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State. The Academy shall take any steps which are required to secure its compliance with the obligations imposed by this clause of the agreement.

106) The Academy shall ensure that:

- i) the agenda for every meeting of the Governing Body;
- ii) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
- iii) the signed minutes of every such meeting; and
- iv) any report, document or other paper considered at any such meeting,

are made available for inspection at the Academy and, as soon as is reasonably practicable, sent to the DfES.

107) There may be excluded from any item required to be made available and sent to the DfES by virtue of clause 106, any material relating to:

- a) a named teacher or other person employed, or proposed to be employed, at the Academy;
- b) a named pupil at, or candidate for admission to, the Academy; and
- c) any matter which, by reason of its nature, the Governing Body are satisfied should remain confidential.

### **Notices**

108) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Governing Body to Canon Martin Lee, The RC Diocese of Southwark, Finance Office, 59 Westminster Bridge Road, London SE1 7JE or such other addressee/address as may be notified in writing from time to time by the Academy and, in the case of a notice or communication from the Academy to the Secretary of State to Head of Academies Division, Department for Education and Skills, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

- 109) This Agreement may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.
- 110) The service by the Secretary of State of a notice of termination under any clause of this Agreement shall not prejudice the ability of the Academy (if it wishes to do so) during the notice period to admit pupils in accordance with the provisions of clause 16 and Annex 2 to this Agreement and to receive GAG and EAG in respect of them.
- 111) The Secretary of State and the Academy Trust recognise the difficulties in catering in this Agreement for all the circumstances which may arise in relation to the Academy and undertake in good faith to conduct such consultations as may from time to time be desirable in order to promote the interests of the Academy throughout the period of this Agreement.

This document is executed as a Deed on:

16 November 2005

EXECUTED as a Deed of the St. Matthew Academy, Lewisham

Reverend Canon Martin John Lee.....

Martin J. Lee

Reverend Monsignor Charles Phillip Richard Moth.....

CPRM

In the presence of

Name

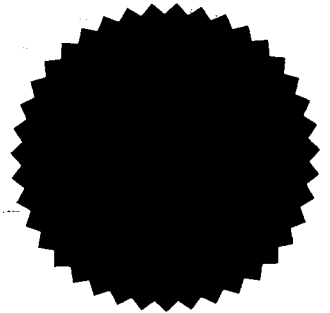
TARS' Santos  
Thomas Alan Reginald D'Santos

Address

The Corporate Seal of the Secretary of State for Education and Skills hereunto affixed  
was authenticated by-

A handwritten signature in black ink, appearing to read 'C. Ger...', with a long horizontal flourish extending to the right.

**Authorised by the Secretary of State for Education and Skills**





**THE COMPANIES ACTS 1985 AND 1989**

**A COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**

**Registered Number 05144640**

**ARTICLES OF ASSOCIATION  
OF  
THE ST MATTHEW ACADEMY LIMITED**

THE COMPANIES ACTS 1985 AND 1989

A COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL

ARTICLES OF ASSOCIATION  
OF  
THE ST MATTHEW ACADEMY LIMITED

**INTERPRETATION**

In these Articles:-

"the Act"	means the Companies Act 1985 including any statutory modification or re-enactment thereof for the time being in force;
"the Trust"	means the company intended to be regulated by these articles;
"the articles"	mean these Articles of Association of the Trust;
"clear days"	in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day of which it is given or on which it is to take effect;
"clerk"	means the secretary of the Trust or any other person appointed to perform the duties of the secretary of the Trust, including a joint, assistant or deputy secretary; the secretary shall be known as the 'clerk' under article 75;
"executed"	includes any mode of execution;
"the memorandum"	means the memorandum of association of the Trust;
"office"	means the registered office of the Trust;
"the governors"	means the directors of the Trust (and "governor" has a corresponding meaning);
'appointed governor'	means a sponsor, LEA, co-opted or additional governor appointed under these articles;
'elected governor'	means a teacher or staff governor elected under these articles or a parent governor appointed under article 41;

<b>"community governor"</b>	means a governor elected by the governing body, from nominations presented by representatives of the churches and faith groups of the Lewisham borough. The process for consulting the representatives will be decided by the sponsor.
<b>"the Academy"</b>	means The St Matthew Academy as referred to in Clause 3 of the memorandum and established by the Trust;
<b>"the Governing Body"</b>	means the governors;
<b>"head teacher"</b>	means the head teacher of the Academy;
<b>"the LEA"</b>	means Lewisham Local Education Authority
<b>"Member"</b>	means a member of the Trust and someone who as such is bound by the undertaking contained in Clause 7 of the memorandum;
<b>"Principal Sponsor"</b>	means The Roman Catholic Diocese of Southwark, Diocesan Trust, Charity Number 235468, 59 Westminster Bridge Road, London, SE1 7JB
<b>"the seal"</b>	mean the common seal of the Trust if it has one;
<b>"Secretary of State"</b>	means the Secretary of State for Education and Skills;
<b>"teacher"</b>	means a teacher employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher;
<b>"the United Kingdom"</b>	means Great Britain and Northern Ireland.

Words importing the masculine gender only shall include the feminine gender. Words importing the singular number only shall include the plural number, and vice versa.

Subject as aforesaid, words or expressions contained in these articles shall, unless the context requires otherwise, bear the same meaning as in the Act.

## **OBJECTS**

- 1) The Trust is established for the objects expressed in the Memorandum of Association.

## **MEMBERS**

- 2) The Members of the Trust shall comprise:
  - (a) The nominee of the Principal Sponsor;
  - (b) Up to 6 persons appointed by the Principal Sponsor;
  - (c) 1 person appointed by the Secretary of State;
  - (d) the chair of the Governing Body appointed by the Principal Sponsor

(e) any person appointed under article 5;

- 3) Each of the persons entitled to appoint Members in article 2 shall have the right from time to time by written notice delivered to the Trust's registered office to remove any Member appointed by them and to appoint a replacement Member to fill a vacancy whether resulting from such removal or otherwise.
- 4) If any of the persons entitled to appoint Members in article 2 die or become legally incapacitated their right to appoint Members under these Articles shall vest in the remaining Members.
- 5) The Members may agree unanimously in writing to appoint such additional Members as they think fit and may unanimously in writing agree to remove any such additional Members.
- 6) Every person nominated to be a Member of the Trust shall either sign a written consent to become a Member or sign the register of Members on becoming a Member.
- 7) The other Members may in their absolute discretion permit any Member to resign provided that after such resignation the number of Members is not less than two. A Member shall cease to be one immediately on the receipt by the Trust of a notice in writing signed by the person or persons entitled to remove him under articles 3 or 5 provided that no such notice shall take effect when the number of Members is less than two unless it contains or is accompanied by the appointment of a replacement Member.

#### GENERAL MEETINGS

- 8) The Trust shall hold an Annual General Meeting each year in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Trust and that of the next. Provided that so long as the Trust holds its first Annual General Meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The Annual General Meeting shall be held at such time and place as the governors shall appoint. All General Meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
- 9) The governors may call general meetings and, on the requisition of members pursuant to the provisions of the Act, shall forthwith proceed to convene an extraordinary general meeting for a date not later than eight weeks after the receipt of the requisition. If there are not within the United Kingdom sufficient governors to call a general meeting, any governor or any member of the Trust may call a general meeting.

#### NOTICE OF GENERAL MEETINGS

- 10) An Annual General Meeting and an extraordinary general meeting called for the passing of a special resolution appointing a person as a governor shall be called by at least twenty-one clear days' notice. All other extraordinary general meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed

- a) in the case of an annual general meeting, by all the members entitled to attend and vote; and
- b) in the case of any other meeting by a majority in number of members having a right to attend and vote, being a majority together holding not less than 95 per cent of the total voting rights at the meetings of all the members.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an annual general meeting, shall specify the meeting as such.

The notice shall be given to all the members, to the governors and auditors.

- 11) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

#### PROCEEDINGS AT GENERAL MEETINGS.

- 12) No business shall be transacted at any meeting unless a quorum is present. A member counts towards the quorum by being present either in person or by proxy. Two persons entitled to vote upon the business to be transacted, each being a member or a duly authorised representative of a member organisation, or one tenth of the total number of such persons for the time being, whichever is the greater, shall constitute a quorum.
- 13) If a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the governors may determine.
- 14) The chairman, if any, of the governors or in his absence some other governor nominated by the governors shall preside as chairman of the meeting, but if neither the chairman nor such other governor (if any) be present within fifteen minutes after the time appointed for the holding the meeting and willing to act the governors present shall elect one of their number to be chairman and, if there is only one governor present and willing to act, he shall be the chairman.
- 15) If no governor is willing to act as chairman, or if no governor is present within fifteen minutes after the time appointed for holding the meeting, the members present and entitled to vote shall choose one of their number to be chairman.
- 16) A governor shall, notwithstanding that he is not a member, be entitled to attend and speak at any general meeting.
- 17) The chairman may, with the consent of a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
- 18) A resolution put to the vote of the meeting shall be decided on a show of hands

unless before, or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the provisions of the Act, a poll may be demanded:-

- a) by the chairman; or
  - b) by at least two members having the right to vote at the meeting ; or
  - c) by a member or members representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.
- 19) Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not-carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
  - 20) The demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the chairman. The withdrawal of a demand for a poll shall not invalidate the result of a show of hands declared before the demand for the poll was made.
  - 21) A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be members) and fix a time and place for declaring the results. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
  - 22) In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to any other vote he may have.
  - 23) A poll demanded on the election of the chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
  - 24) No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
  - 25) A resolution in writing executed by or on behalf of each member who would have been entitled to vote upon it if it had been proposed at a general meeting at which he was present shall be as effectual as if it had been passed at a general meeting duly convened and held and may consist of several instruments in the like form each executed by or on behalf of one or more members.

#### VOTES OF MEMBERS

- 26) Subject to Article 22, on the show of hands every member present in person shall have one vote. On a poll every member present in person or by proxy shall have one vote.

- 27) A member in respect of whom an order has been made by any court having jurisdiction (whether in the United Kingdom or elsewhere) in matters concerning mental disorder may vote, whether on a show of hands or on a poll, by his receiver, curator bonis or other person authorised in that behalf appointed by that court, and any such receiver, curator bonis or other person may, on a poll, vote by proxy. Evidence to the satisfaction of the governors of the authority of the person claiming to exercise the right to vote shall be deposited at the office, or at such other place as is specified in accordance with the articles for the deposit of instruments of proxy, not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and in default the right to vote shall not be exercisable.
- 28) No member shall be entitled to vote at any general meeting unless all moneys then payable by him to the Trust have been paid.
- 29) No objections shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
- 30) An instrument appointing a proxy shall be in writing, executed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the governors may approve) -

"I/We, ....., of ....., being a member/members of the above named trust, hereby appoint ..... of ....., or failing him, ..... of ..... as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Trust to be held on .....200[ ], and at any adjournment thereof.

Signed on ..... 200[ ]"

- 31) Where it is desired to afford members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the governors may approve)-

"I/We, ....., of ....., being a member/members of the above-named trust, hereby appoint .... of ....., or failing him ..... of ....., as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual/extraordinary general meeting of the Trust, to be held on .... 200[ ], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 \*for \* against

Resolution No. 2 \*for \* against.

\* Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on .... 200[ ]"

32) The instrument appointing a proxy and any authority under which it is executed or a copy of such authority certified by a notary or in some other way approved by the governors may -

- a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Trust in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or
- b) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll;
- c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the clerk or to any governor;

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

33) A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Trust at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote given or the poll demanded or (or in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.

34) Any organisation which is a member of the Trust may by resolution of its board of governors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Trust, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the Trust.

## GOVERNORS

35) The number of governors shall be not less than two but (unless otherwise determined by ordinary resolution) shall not be subject to any maximum.

36) Subject to article 38 the Trust shall have the following governors:

- a) up to 9 sponsor governors;
- b) 1 parent governor;
- c) 1 community governor
- d) 1 teacher governor;
- e) 1 non-teaching staff governor; and



- f) 1 head teacher governor, who shall be treated for all purposes as being an ex officio governor.

The Trust may also have the following governors:

- a. any co-opted governor appointed under article 52;
- b. any additional governor appointed under article 55;
- c. 1 governor appointed by the LEA.

- 37) The first governors shall be those persons named in the statement delivered pursuant to section 10(2) of the Act, who shall be deemed to have been appointed under article 39 and shall be deemed to be sponsor governors. Future sponsor governors shall be appointed under article 39.
- 38) Future governors required by article 36 shall be appointed or elected, as the case may be, under these articles. Where it is not possible for such a governor to be appointed or elected due to the fact that the Academy is not yet established then the relevant article or part thereof shall not apply.

#### APPOINTMENT AND ELECTION OF GOVERNORS

- 39) The Principal Sponsor shall appoint the sponsor governors and shall appoint a nominee of suitable experience as a sponsor governor. If the Principal Sponsor is wound up or struck off the register at Companies House the right to appoint the sponsor governors shall vest in the nominee until such time as the nominee withdraws at which time the right to appoint sponsor governors shall vest in the Governing Body
- 40) The LEA may appoint the LEA governor.

#### Parent Governors

- 41) The parent governor shall be elected by parents of registered pupils at the Academy. A parent governor must be such a parent at the time when he is elected. The number of parent governors required shall be made up by parent governors appointed by the Governing Body if the number of parents standing for election is less than the number of vacancies. In appointing a parent governor the Governing Body shall appoint-
- A person who is the parent of a registered pupil at the Academy; or
- Where it is not reasonably practicable to do so, a person who is the parent of a child of compulsory school age.
- 42) The Governing Body shall determine for the purposes of an election of parent governors any question whether a person is a parent of a registered pupil at the Academy.
- 43) The Governing Body shall make all necessary arrangements for, and determine all other matters relating to an election of parent governors. Any election of parent governors which is contested shall be held by secret ballot.
- 44) The arrangements made for the election of a parent governor shall provide for every

person who is entitled to vote in the election to have an opportunity to do so by post, or, if he prefers, by having his ballot paper returned to the Academy by a registered pupil at the Academy.

- 45) An elected parent governor shall resign office if that parent's child is no longer a registered pupil at the Academy and an appointed parent governor shall resign office when their child is no longer of compulsory school age. Where a vacancy for a parent governor is required to be filled by election, the Governing Body shall take such steps as are reasonably practicable to secure that every person who is known to them to be a parent of a registered pupil at the Academy is
- a) Informed of the vacancy and that it is required to be filled by election;
  - b) Informed that he is entitled to stand as a candidate and vote at the election, and given an opportunity to do so.

#### Teacher governors

- 46) The teacher governor shall be elected by the teachers at the Academy. A teacher governor must be a teacher at the Academy at the time he is elected. If a teacher governor ceases to be a teacher at the Academy then he shall resign as a governor.
- 47) The Governing Body shall determine for the purposes of an election of a teacher governor, any question whether a person is a teacher at the Academy.
- 48) The Governing Body shall make all necessary arrangements for and determine all other matters relating to an election of teacher governors. Any election of teacher governors which is contested shall be held by secret ballot.

#### Staff Governors

- 49) The staff governor shall be elected by persons employed to work at the Academy otherwise than as teachers. The staff governor must be so employed at the time he is elected. If a staff governor ceases to be so employed then he shall resign as a governor. For this purpose 'employed' means employed under a contract of employment or a contract for services.
- 50) The Governing Body shall determine for the purposes of an election of a staff governor, any question whether a person is employed otherwise than as a teacher at the Academy.
- 51) The Governing Body shall make all necessary arrangements for and determine all other matters relating to an election of staff governors. Any election of staff governors which is contested shall be held by secret ballot.

#### Co-opted Governors

- 52) The Members of the Trust may appoint up to 4 co-opted governors. A 'co-opted governor' means a person who is appointed to be a governor by being co-opted by governors who have not themselves been so appointed.

#### APPOINTMENT OF ADDITIONAL GOVERNORS

- 53) The Secretary of State may give a warning notice to the Governing Body where—

- a) he is satisfied—
    - i) that the standards of performance of pupils at the Academy are unacceptably low and are likely to remain so unless the Secretary of State exercises his powers under article 55, or
    - ii) that there has been a serious breakdown in the way the Academy is managed or governed which is prejudicing, or likely to prejudice, such standards of performance, or
    - iii) that the safety of pupils or staff of the Academy is threatened (whether by a breakdown of discipline or otherwise); and
  - b) the Secretary of State has previously informed the Governing Body of the matters on which that conclusion is based; and
  - c) those matters have not been remedied to the Secretary of State's satisfaction within a reasonable period.
- 54) For the purposes of article 53 a 'warning notice' is a notice in writing by the Secretary of State setting out—
- a) the matters referred to in Article 53(a);
  - b) the action which they require the Governing Body to take in order to remedy those matters; and
  - c) the period within which that action is to be taken by the Governing Body ('the compliance period').
- 55) The Secretary of State may appoint up to 8 additional governors as he thinks fit if the Secretary of State has:
- a) given the Governing Body a warning notice in accordance with article 53; and
  - b) the Governing Body have failed to comply, or secure compliance, with the notice to the Secretary of State's satisfaction within the compliance period; and
  - c) the Secretary of State has given reasonable notice in writing to the Governing Body that he proposes to exercise his powers under this article.

#### VACANCIES OF APPOINTED GOVERNORS

- 56) Where a vacancy in the office of an appointed governor arises, the clerk shall, as soon as is reasonably practicable, give notice in writing of that fact to the person or persons entitled to appoint a person to that office.
- 57) The clerk shall, at least two months before the date of the expiry of the term of office of an appointed governor, give notice in writing of the expiry of that term to the person or persons entitled to appoint a person to that office.
- 58) Where any person or persons make an appointment of a governor they shall give written notice of the appointment to the clerk specifying the name and usual place of residence of the person so appointed.
- 59) The term of office for any governor shall be 4 years, save that this time limit shall not

apply to either the head teacher or the Principal Sponsor (during any period that either of the Principal Sponsor is a governor). Subject to remaining eligible to be a particular type of governor any governor may be re-appointed or re-elected.

## RESIGNATION AND REMOVAL

- 60) A governor shall cease to hold office if he resigns his office by notice to the Trust (but only if at least two governors will remain in office when the notice of resignation is to take effect).
- 61) A governor shall cease to hold office if he is removed by the person or persons who appointed him. This article does not apply in respect of any elected governor; or a parent governor who has been appointed rather than elected.
- 62) Where a governor resigns his office or is removed from office, the governor or, where he is removed from office, those removing him, shall give written notice thereof to the clerk.

## DISQUALIFICATION OF GOVERNORS

- 63) No person shall be qualified to be a governor unless he is aged 18 or over at the date of his election or appointment. No pupil of the Academy shall be a governor.
- 64) A governor shall cease to hold office if he becomes incapable by reason of mental disorder, illness or injury of managing or administering his own affairs.
- 65) A governor shall cease to hold office if he is absent without the permission of the governing body from all their meetings held within a period of six months and the governors resolve that his office be vacated.
- 66) A person shall be disqualified from holding or continuing to hold office as a governor if—
  - a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced: or
  - b) he is the subject of a bankruptcy restrictions order or an interim order.
- 67) A person shall be disqualified from holding or continuing to hold office as a governor at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
- 68) A governor shall cease to hold office if he ceases to be a governor by virtue of any provision in the Act or is disqualified from acting as a trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision).
- 69) A person shall be disqualified from holding or continuing to hold office as a governor if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.

- 70) A person shall be disqualified from holding or continuing to hold office as a governor if he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002
- 71) A person shall be disqualified from holding or continuing to hold office as a governor where he has, at any time, been convicted of any criminal offence, including any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, excluding any offence for which the maximum sentence is a fine or a lesser sentence.
- 72) A person shall be disqualified from holding or continuing to hold office as a governor at any time when he refuses a request by the Clerk to the Governing Body, following a referral from either the Chair of Governors or the Head Teacher, to make an application under section 113 of the Police Act 1997, as amended for a criminal records certificate. That application will be at an enhanced disclosure level. A referral by the Chair of Governors or the Head Teacher shall be made where the person is in their opinion giving cause for concern or will have regular unsupervised contact with children. In the event that the certificate discloses any information, which would in the opinion of either the Chair of Governors or the Head Teacher, disqualify or prevent a person from serving as a governor that person should be disqualified. If a dispute arises as to whether a person shall be disqualified a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.
- 73) Where, by virtue of these articles a person becomes disqualified from holding, or continuing to hold office as a governor; and he is, or is proposed, to become such a governor, he shall upon becoming so disqualified give written notice of that fact to the clerk.
- 74) Articles 63 to 73 also apply to any member of any committee of the governors who is not a governor.

#### SECRETARY/CLERK TO THE GOVERNING BODY

- 75) Subject to the provisions of the Act, the secretary shall be appointed by the governors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be appointed by them. The secretary shall be known as "the clerk". The clerk shall not be a governor or the head teacher. Notwithstanding this article, the Governing Body may, where the clerk fails to attend a meeting of theirs, appoint any one of their number to act as clerk for the purposes of that meeting.

#### CHAIRMAN AND VICE-CHAIRMAN OF THE GOVERNING BODY

- 76) The Chairman and Vice Chairman of the Governing body shall be appointed by the Principal Sponsor. A governor who is employed to work at the Academy shall not be eligible for election as chairman or vice-chairman.
- 77) Subject to article 76, the chairman or vice-chairman shall hold office as such until his successor has been appointed in accordance with the above.
- 78) The chairman or vice-chairman may at any time resign his office by giving notice in writing to the clerk. The chairman or vice-chairman shall cease to hold office if—
- i) he ceases to be a governor;

- ii) he is employed to work at the Academy;
  - iii) he is removed from office in accordance with these articles; or
  - iv) in the case of the vice-chairman, he is elected in accordance with these articles to fill a vacancy in the office of chairman.
- 79) Where by reason of any of the matters referred to in article 78, a vacancy arises in the office of chairman or vice-chairman, the Principal Sponsor shall at the next meeting appoint a Governor to fill that vacancy.
- 80) Where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chairman for the purposes of the meeting.
- 81) Where in the circumstances referred to in article 80 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the governors shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the governor elected shall not be a person who is employed to work at the Academy.
- 82) The clerk to the governors shall act as chairman during that part of any meeting at which the chairman is elected, but for these purposes article 22 shall not apply.
- 83) Any election of the chairman or vice-chairman under article 81 which is contested shall be held by secret ballot.
- 84) The governors may remove the chairman or vice-chairman from office in accordance with this article:
- a) a resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Governing Body shall not have effect unless—
    - i) it is confirmed by a resolution passed at a second meeting of the Governing Body held not less than fourteen days after the first meeting ('the second meeting'); and
    - ii) the matter of the chairman's or vice-chairman's removal from office is specified as an item of business on the agenda for each of those meetings.
    - iii) the removal of the chairman or vice chairman is approved in writing by the Principal Sponsor.
  - b) Before the Governing Body resolve at the relevant meeting on whether to confirm the resolution to remove the chairman or vice-chairman from office, the governor or governors proposing his removal shall at that meeting state their reasons for doing so and the chairman or vice-chairman shall be given an opportunity to make a statement in response.

#### POWERS OF GOVERNORS

- 85) Subject to provisions of the Act, the memorandum and the articles and to any directions given by special resolution, the business of the Trust shall be managed by

the governors who may exercise all the powers of the Trust. No alteration of the memorandum or the articles and no such direction shall invalidate any prior act of the governors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this article shall not be limited by any special power given to the governors by the articles and a meeting of governors at which a quorum is present may exercise all the powers exercisable by the governors.

- 86) In addition to all powers hereby expressly conferred upon them and without detracting from the generality of their powers under the articles the governors shall have the following powers, namely:

(a) to expend the funds of the Trust in such manner as they shall consider most beneficial for the achievement of the Objects and to invest in the name of the Trust such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the Objects;

(b) to enter into contracts on behalf of the Trust.

- 87) The governors shall exercise their powers and functions with a view to fulfilling a largely strategic role in the running of the school and shall consider any advice given by the head teacher.

- 88) Any bank account in which any part of the assets of the Trust is deposited shall be operated by the governors and shall indicate the name of the Trust. All cheques and orders for the payment of money from such account shall be signed by at least two signatories authorised by the governors in respect of their activities as governors.

#### GOVERNORS' EXPENSES

- 89) The governors may at the discretion of the Governing Body be paid all reasonable and proper out of pocket travelling, hotel and other expenses, excluding foreign travel, properly incurred by them in connection with their attendance at meetings of governors or committees of governors or general meetings or otherwise in connection with the discharge of their duties, but shall otherwise be paid no remuneration.
- 90) Except to the extent permitted by clause 5 of the memorandum and subject to articles 115 to 117, no governor shall take or hold any interest in property belonging to the Trust or receive remuneration or be interested otherwise than as a governor in any contract to which the Trust is a party.

#### THE MINUTES

- 91) The minutes of the proceedings of a meeting of the Governing Body shall be drawn up and entered into a book kept for the purpose by the person acting as clerk for the purposes of the meeting; and shall be signed (subject to the approval of the Governing Body) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of :
- a) all appointments of officers made by the governors; and
  - b) of all proceedings at meetings of the Trust and of the governors and of committees of governors including the names of the governors present at

each such meeting.

## DELEGATION

- 92) Subject to these articles the governors may delegate any of their powers or functions to any committee. They may also delegate to the head teacher or any other holder of an executive office such of their powers or functions as they consider desirable to be exercised by him. Any such delegation may be made subject to any conditions the governors may impose, and either collaterally with or to the exclusion of their own powers and may be revoked or altered.
- 93) Where any function of the governors has been delegated to or is otherwise exercisable by a governor (including the chairman or vice-chairman), the head teacher, or a committee established by them; any member, head teacher or committee to whom a function of the governors has been delegated or who has otherwise exercised a function of the governors shall report to the governors in respect of any action taken or decision made with respect to the exercise of that function at the meeting of the governors immediately following the taking of the action or the making of the decision.
- 94) The governors may, subject to these articles, delegate any of their powers and functions either generally or for a specific purpose to a committee consisting of one or more members of the Governing Body and such other persons as the Governing Body thinks fit, and the constitution of any such committee shall be determined by the governors. The establishment, terms of reference, constitution and membership of any committee of the governors shall be reviewed at least once in every twelve months. Subject to any conditions or regulations imposed by the governors, the meetings and proceedings of any such committee shall be governed by the provisions of these articles for regulating the meetings and proceedings of the Governing Body so far as applicable. All acts and proceedings of such committee shall be reported back to the Governing Body as soon as possible.

## HEAD TEACHER

- 95) The governors shall appoint the head teacher of the Academy. Subject to these articles, the head teacher shall be responsible for the internal organisation, management and control of the Academy, the implementation of all policies approved of by the governors and for the direction of the teaching and curriculum. For these purposes the governors shall delegate those powers and functions required by the head teacher.

## MEETINGS OF THE GOVERNING BODY

- 96) Subject to these articles, the governors may regulate their proceedings as they think fit.
- 97) The Governing Body shall hold at least one meeting in every school term. Meetings of the Governing Body shall be convened by the clerk. In exercising his functions under this article the clerk shall comply with any direction—
- i) given by the Governing body; or
  - ii) given by the chairman of the Governing Body or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the Governing Body, so far as such



direction is not inconsistent with any direction given as mentioned in article 96(i).

- 98) Any three governors may, by notice in writing given to the clerk, requisition a meeting of the Governing Body; and it shall be the duty of the clerk to convene such a meeting as soon as is reasonably practicable.
- 99) Each governor shall be given at least fourteen clear days before the date of a meeting—
- (a) notice in writing thereof, signed by the clerk, and sent to each governor at the address provided by each governor from time to time; and
  - (b) a copy of the agenda for the meeting:
- provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda therefore are given within such shorter period as he directs.
- 100) The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda therefore.
- 101) A resolution to rescind or vary a resolution carried at a previous meeting of the Governing Body shall not be proposed at a meeting of the Governing Body unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting.
- 102) A meeting of the Governing Body shall be terminated forthwith if—
- i) the Governing Body so resolve; or
  - ii) the number of governors present ceases to constitute a quorum for a meeting of the Governing Body in accordance with article 105, subject to article 107.
- 103) Where in accordance with article 102 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the clerk as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.
- 104) Where the Governing Body resolve in accordance with article 102 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governing Body shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the clerk to convene a meeting accordingly.
- 105) Subject to Article 107 the quorum for a meeting of the Governing Body, and any vote on any matter thereat, shall, subject to this article, be any two governors, or, where greater, any one third (rounded up to a whole number) of the total number of governors holding office at the date of the meeting).
- 106) The governors may act notwithstanding any vacancies in their number, but, if the numbers of governors is less than the number fixed as the quorum, the continuing

**governors may act only for the purpose of filling vacancies or of calling a General Meeting.**

**107) The quorum for the purposes of—**

- i) appointing a parent governor;**
- ii) any vote on the removal of a member of the Governing Body in accordance with article 61;**
- iii) any vote on the removal of the chairman of the Governing Body in accordance with articles 61 and 76**

**shall be any two-thirds (rounded up to a whole number) of the persons who are at the time governors entitled to vote on those respective matters.**

**108) Subject to these articles, every question to be decided at a meeting of the Governing Body shall be determined by a majority of the votes of the members present and voting on the question.**

**109) Subject to articles 105 to 107, where there is an equal division of votes the chairman or, as the case may be, the person who is acting as chairman for the purposes of the meeting, shall have a second or casting vote.**

**110) The proceedings of the Governing Body shall not be invalidated by—**

- i) any vacancy among their number, or**
- ii) any defect in the election, appointment or nomination of any governor.**

**111) A resolution in writing, signed by all the governors entitled to receive notice of a meeting of governors or of a committee of governors, shall be valid and effective as if it had been passed at a meeting of governors (or as the case may be) a committee of governors duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more of the governors.**

**112) Subject to this article, the Governing Body shall ensure that a copy of—**

- i) the agenda for every meeting of the Governing Body;**
- ii) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;**
- iii) the signed minutes of every such meeting; and**
- iv) any report, document or other paper considered at any such meeting,**

**are, as soon as is reasonably practicable, made available at the Academy to persons wishing to inspect them.**

**113) There may be excluded from any item required to be made available in pursuance of article 112, any material relating to—**

- i) a named teacher or other person employed, or proposed to be employed, at the Academy;**
- ii) a named pupil at, or candidate for admission to, the Academy;**

and

- iii) any matter which, by reason of its nature, the governing body are satisfied should remain confidential.

- 114) Any governor shall be able to participate in meetings of the Governing Body by video conference provided that he has given notice of his intention to do so detailing the telephone number on which he can be reached and appropriate details of the video conference suite from which he shall be taking part at least 48 hours before the meeting and provided that the Governing Body has access to the appropriate equipment.
- 115) The Academy shall not enter into any contract or arrangement where a member of the Governing Body has a duty or pecuniary interest (direct or indirect), which conflicts or may conflict with it unless provided for elsewhere in the memorandum or articles. Any governor who has any such duty or pecuniary interest shall disclose that fact to the Governing Body as soon as he becomes aware of it. If no such conflict or potential conflict arises but the Academy proposes to enter into any contract or arrangement with an entity of which any governor is an employee, that governor shall withdraw from any meeting of the Governing Body at which the matter involving his or her employer is under discussion.
- 116) Without limitation to the generality of article 115, a governor shall be treated as having a pecuniary interest in a contract or proposed contract or other arrangement with the Academy if:
  - (a) he is a director or a member holding more than 1/100<sup>th</sup> of the issued share capital of a company with which the contract or arrangement was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration; or
  - (b) he is a partner in a partnership or member of an unincorporated association or any other body with whom the contract or arrangement was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration.
- 117) For the purposes of articles 115 and 116 an interest of a person who is, within the meaning of section 346 of the Act, connected with a governor shall be treated as an interest of the governor. This shall include:
  - (a) that governor's spouse, child or stepchild; or
  - (b) a body corporate with which the governor is associated (i.e. if that governor and persons connected with him together are interested in shares comprising at least one fifth of the share capital of the company or are entitled to exercise more than one fifth of the voting power at any general meeting of that company); or
  - (c) a person acting in his capacity as trustee of any trust the beneficiaries of which include:
    - (i) the governor, his spouse or any children or stepchildren of his; or
    - (ii) a body corporate with which he is associated; or

- (d) a person acting in his capacity as a partner of that governor or of any person who, by virtue of paragraphs (a), (b) or (c) above, is connected with that governor.

#### **PATRONS AND HONORARY OFFICERS**

- 118) The governors may from time to time appoint any person whether or not a member of the Trust to be a patron of the Trust or to hold any honorary office and may determine for what period he is to hold such office.

#### **THE SEAL**

- 119) The seal shall only be used by the authority of the governors or of a committee of governors authorised by the governors. The governors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a governor and by the clerk or by a second governor.

#### **ACCOUNTS**

- 120) Accounts shall be prepared in accordance to the provisions of Part VII of the Act.

#### **ANNUAL REPORT**

- 121) The governors shall comply with their obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual report and its transmission to the Commissioners.

#### **ANNUAL RETURN**

- 122) The governors shall comply with their obligations under the Charities Act 1993 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual return and its transmission to the Commissioners.

#### **NOTICES**

- 123) Any notice to be given to or by any person pursuant to the articles shall be in writing except that a notice calling a meeting of the governors need not be in writing.
- 124) A notice may be given by the Trust to a member either personally or by sending it by post in a prepaid envelope addressed to the member at his registered address or by leaving it at that address. A member whose registered address is not within the United Kingdom and who gives to the Trust an address, within the United Kingdom at which notices may be given to him shall be entitled to have notices given to him at that address, but otherwise no such member shall be entitled to receive any notice from the Trust.
- 125) A member present in person at any meeting shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.
- 126) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted.

#### **INDEMNITY**

- 127) Subject to the provisions of the Act every governor or other officer or governor or auditor of the Trust shall be indemnified out of the assets of the Trust against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Trust.

## RULES

- 128) The governors may from time to time make such rules or bye laws as they may deem necessary or expedient or convenient for the proper conduct and management of the Trust and for purposes of prescribing classes of and conditions of membership, and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye laws regulate:
- a) the admission and classification of members of the Trust (including the admission of organisations to membership) and the rights and privileges of such members, and the conditions of membership and the terms on which members may resign or have their membership terminated and the entrance fees, subscriptions and other fees or payments to be made by members;
  - b) the conduct of members of the Trust in relation to one another, and to the Trust's servants;
  - c) the setting aside of the whole or any part or parts of the Trust's premises at any particular time or times or for any particular purpose or purposes;
  - d) the procedure at general meetings and meetings of the governors and committees of the governors and meetings of the governing body in so far as such procedure is not regulated by the articles;
  - e) generally, all such matters as are commonly the subject matter of company rules.
- 129) The Trust in general meeting shall have power to alter, add or to repeal the rules or bye laws and the governors shall adopt such means as they think sufficient to bring to the notice of members of the Trust all such rules or bye laws, which shall be binding on all members of the Trust. Provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the memorandum or the articles.

## Names and Addresses of Subscribers

Name

  
Reverend Canon Martin John Lee

Address



Name

Reverend Monsignor Charles Phillip Richard Moth

Address

Dated

12<sup>th</sup> May 2004

Witness to the above Signatures: *TAS' Santos*

Name

Thomas Alan Reginald D'Santos

Address

**THE COMPANIES ACTS 1985 AND 1989**

**A COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION  
OF  
THE ST MATTHEW ACADEMY LIMITED**

**THE COMPANIES ACTS 1985 AND 1989**

**A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION OF**

**THE ST MATTHEW ACADEMY LIMITED**

1. The Company's name is **THE ST MATTHEW ACADEMY LIMITED** (and in this document it is called "the Trust").
2. The Trust's registered office is to be situated in England and Wales.
3. The Trust's objects ("the Objects") are to advance for the public benefit Roman Catholic Education in the geographical area over which the person for the time being exercising Episcopal or ordinary jurisdiction in the Roman Catholic Diocese of Southwark shall for the time being exercise jurisdiction and in particular but without prejudice to the generality of the foregoing by establishing maintaining carrying on, managing and developing an Academy providing religious education in accordance with the tenets of the Roman Catholic religion within the area of the London Borough of Lewisham Local Education Authority to be known as The St Matthew Academy ("the Academy") offering a broad curriculum with a strong emphasis on, but in no way limited to Business and Enterprise.
4. In furtherance of the above the Objects but not further or otherwise the Trust may exercise the following powers:-
  - (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Trust;
  - (b) to raise funds and to invite and receive contributions provided that in raising funds the Trust shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;
  - (c) to acquire, alter, improve and (subject to such consents as may be required by law) to charge or otherwise dispose of property;
  - (d) subject to clause 5(7) below, to employ such staff as are necessary for the proper pursuit of the Objects and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependants. Such



staff shall not be governors, save for the head teacher of the Academy and staff or teacher governors elected in accordance with the Academy's Articles of Association.

- (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Objects;
- (f) to co-operate with other charities, other independent and maintained schools, voluntary bodies and statutory authorities operating in furtherance of the Objects and to exchange information and advice with them;
- (g) to pay out of funds of the Trust the costs, charges and expenses of and incidental to the formation and registration of the Trust;
- (h) to establish maintain carry on manage and develop the Academy at the St Joseph's Vale, Lewisham, London site.
- (i) to offer scholarships, exhibitions, prizes and awards to pupils and former pupils, and otherwise to encourage and assist pupils and former pupils;
- (j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;
- (k) to carry out research into the development and application of new techniques in education in particular in relation to the Academy's area of curricular specialisation and to its approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools and the voluntary sector to the education of pupils in Academies;
- (l) subject to such consents as may be required by law to borrow and raise money for the furtherance of the Objects in such manner and on such security as the Trust may think fit;
- (m) to invest the moneys of the Trust not immediately required for the furtherance of its objects in or upon such investments, securities or property as may be thought fit, to hold the same as investments and to sell, exchange, carry and dispose of the same, subject nevertheless to such conditions (if any) and such consents (if any) as may for the time being be imposed or required by law;
- (n) to provide indemnity insurance to cover the liability of governors which by virtue of

any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the governors knew to be a breach of trust or breach of duty or which was committed by the governors in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the governors in their capacity as governors;

(o) to establish subsidiary companies to carry on any trade or business for the purpose of raising funds for the Academy;

(p) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Objects.

5. The income and property of the Trust shall be applied solely towards the promotion of the Objects and no part shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to members of the Trust, and no governor shall be appointed to any office of the Trust paid by salary or fees or receive any remuneration or other benefit in money or money's worth from the Trust. Provided that nothing in this document shall prevent the payment in good faith by the Trust:-

(1) of the usual professional charges for business done by any governor who is a solicitor, accountant or other person engaged in a profession, or by any partner of his or hers, when instructed by the Trust to act in a professional capacity on its behalf: Provided that at no time shall a majority of the governors benefit under this provision and that a governor shall withdraw from any meeting at which his or her appointment or remuneration, or that of his or her partner, is under discussion;

(2) of reasonable and proper remuneration for any services rendered to the Trust by any member, officer or servant of the Trust who is not a governor;

(3) of interest on money lent by any member of the Trust or governor at a reasonable and proper rate per annum not exceeding 2 per cent less than the published base lending rate of a clearing bank to be selected by the governors;

(4) of fees, remuneration or other benefit in money or money's worth to any company of which a governor may also be a member holding not more than 1/100<sup>th</sup> part of the issued capital of that company;

(5) of reasonable and proper rent (as determined by an independent valuer appointed by the Trust) for premises demised or let by any member of the Trust or a governor;

(6) to any governor of reasonable out-of-pocket expenses;

(7) of reasonable and proper remuneration to any governor of the Academy who is employed by the Trust at the Academy established or continued by the Trust: Provided that at no time shall a majority of the governors benefit under this provision and that a governor shall withdraw from any meeting at which his or her appointment, remuneration or terms or conditions specific to him or her at the Academy are under discussion;

(8) of any premium in respect of any indemnity insurance to cover the liability of the governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in relation to the company: Provided that any such insurance shall not extend to any claim arising from any act or omission which governors knew to be a breach of trust or breach of duty or which was committed by the governors in reckless disregard to whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against governors in their capacity as directors of the Trust.

6. The liability of the members of the Trust is limited.
7. Every member of the Trust undertakes to contribute such amount as may be required (not exceeding £10) to the Trust's assets if it should be wound up while he or she is a member or within one year after he or she ceases to be a member, for payment of the Trust's debts and liabilities before he or she ceases to be a member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.
8. If the Trust is wound up or dissolved and after all its debts and liabilities (including any under section 483 of the Education Act 1996) have been satisfied there remains any property it shall not be paid to or distributed among the members of the Trust, but shall be given or transferred to some other charity or charities having objects similar to the Objects which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Trust by Clause 4 above,

...by the members of the Trust at or before the time of dissolution and if that cannot be done then to some other charitable object.

9. No alteration or addition shall be made to or in the provisions of the Memorandum or Articles of Association which would have the effect (a) that the Trust would cease to be a company to which Section 30 of the Companies Act 1985 applies; (b) which is inconsistent with the provisions of Section 64 of the Charities Act 1993; or (c) that the Trust would cease to be a charity.

**WE, the persons whose names and addresses are written below, wish to be formed into a company under this Memorandum of Association.**

**Signatures, Names and Addresses of Subscribers**

Name Reverend Canon Martin John Lee *Martin J Lee*

Address

Name *CPH*  
Reverend Monsignor Charles Phillip Richard Moth

Address

Dated *12<sup>th</sup> May 2004*

Witness to the above Signatures: *TARJ Santos*

Name *Thomas Alan Reginald D'Santos*

Address

## **ANNEX 2**

### **THE ADMISSION OF PUPILS TO THE ST MATTHEW ACADEMY**

1. This document sets out the admission arrangements for the St Matthew Academy. The document forms an Annex to the Funding Agreement between the St Matthew Academy and the Secretary of State. These arrangements are without prejudice to the provisions of Annex 3 to this agreement. Any changes to the arrangements set out in this document must be approved in advance by the Secretary of State.
2. The Academy will comply with all relevant provisions of the statutory codes of practice (the School Admissions Code of Practice and the School Admission Appeals Code of Practice) as they apply at any given time to maintained schools and with the law on admissions as it applies to maintained schools. Reference in the codes to admission authorities shall be deemed to be references to the governing body of the Academy. In particular, the Academy will take part in the Admissions Forum set up by the Lewisham LEA and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the Lewisham LEA.
3. Notwithstanding these arrangements, the Secretary of State may direct the St Matthew Academy to admit a named pupil to the Academy on application from an LEA. Before doing so the Secretary of State will consult the Academy.

#### **I: ADMISSION ARRANGEMENTS APPROVED BY SECRETARY OF STATE**

4. The admission arrangements for the St Matthew Academy for the year 2007/2008 and, subject to any changes approved by the Secretary of State, for subsequent years are:
  - a) The St Matthew Academy has an agreed admission number of 60 pupils for Year R (Reception) and 120 pupils in Year 7. The St Matthew Academy will accordingly admit up to 60 pupils to Year R and pupils in Year 6 will have the automatic right to transfer to Year 7. The Academy will then admit additional pupils up to a maximum of the 180 places available in Year 7 overall.
  - b) The St Matthew Academy may set a higher admission number as its Published Admission Number for any specific year. Before setting an admission number higher than its agreed admission number, the St Matthew Academy will consult those listed at paragraphs 17 below. Pupils will not be admitted above the Published Admission Number unless exceptional circumstances apply and such circumstances shall be reported to the Secretary of State.

## **Process of application**

5. Applications for places at the Academy will be made in accordance with LEA's co-ordinated admission arrangements, and will be made on the Common Application Form (CAF) and will be administered by the Lewisham LEA. Parents will be required to complete a supplementary form to provide information not captured on the LEA's application form that relates to the religious criteria for admission. The supplementary form must be returned to the Academy by the closing date for admissions. The St Matthew Academy will use the following timetable for applications each year (exact dates within the months may vary from year to year) which will be consistent with the common timetable agreed by the Lewisham LEA:

### **Secondary Places in Year 7**

- a) July - The St Matthew Academy will publish in its prospectus information about the arrangements for admission, including oversubscription criteria, for the following September (eg in July 2006 for admission in September 2007). This will include details of open evenings and other opportunities for prospective pupils and their parents to visit the school. The St Matthew Academy will also provide information to the LEA for inclusion in the composite prospectus, as required;
- b) September/October - The St Matthew Academy will provide opportunities for parents to visit the Academy;
- c) 21 October - The CAF to be completed and returned to the Lewisham LEA to administer; the supplementary information form to be completed and returned to the Academy. In the case of Lewisham residents this will be on Lewisham's CAF; in the case of other applicants it will be on their home LEA's CAF and will be sent to Lewisham via the Pan London Register.
- d) The Lewisham LEA sends applications to Academy
- e) January - The Academy advises the Lewisham LEA of the ranked order of places to be offered
- f) February - The Lewisham LEA applies its agreed scheme for its own schools, informing other LEAs of offers to be made to their residents.
- g) 1 March offers of secondary places notified in writing to parents by the Lewisham LEA.

### **Reception Places for September 2007**

In accordance with Lewisham LEA's arrangements, children born between 1 September 2002 and 28 February 2003 will be admitted to the reception classes in September 2007, and children born between 1 March and 31 August 2003 will be admitted in January 2008. Admissions decisions will be

made at the same time for both September and January intakes and the closing date for both intakes will be 1 February 2006.

Children who attend a nursery class attached to a primary school frequently transfer to the main school but this cannot be guaranteed. In the event of oversubscription, admission to the reception class will be decided on the basis of the criteria set out below. Parents of children attending the nursery must apply for a place in the reception class and will be considered with other applicants at the appropriate time. All applications for Year R places, whether from Lewisham or elsewhere, must be made through the LEA on Lewisham's Common Application Form and the Academy's Supplementary Information Form.

### **Consideration of applications**

6. The St Matthew Academy will consider all applications for places. Where fewer applications than the agreed admission number are received, the St Matthew Academy will offer places to all those who have applied.

### **Procedures where the St Matthew Academy is oversubscribed**

7. Where the number of applications for admission is greater than the published admissions number, applications will be considered against the criteria set out below. After the admission of pupils with statements of Special Educational Needs where the St Matthew Academy is named on the statement, the criteria will be applied in the order in which they are set out below:

#### **Criteria for Year R (Reception) and Year 7**

- a) Catholic Children in public care<sup>(1)</sup> and children looked after<sup>(1)</sup> by Catholic families;
- b) Baptised Catholic children<sup>(2)</sup>;
- c) Other children in public care;
- d) Baptised Eastern Orthodox children<sup>(3)</sup>;
- e) Children of other Christian denominations whose applications are supported by a Minister of Religion;
- f) Children of other faiths whose application is supported by a Religious Leader of a designated place of worship;
- g) Other applicants.

If it is necessary to distinguish between applicants within any of the above categories, places will be allocated first to those applicants who have a

sibling<sup>(4)</sup> who will be attending the Academy at the proposed date of admission of the applicant. After siblings, the remaining places will be allocated to those whose home addresses are closest to the Academy, as measured by straight line distance from the main entrance of the Academy to the main entrance to the child's normal place of residence. If it is necessary to distinguish between two applicants with a sibling connection, this will be done on the basis of closeness to the Academy as determined by straight line distance as described above.

For the purposes of the criteria set out in section 7 (a) to (f) above the following definitions will apply:

- (1) Children in public care (sometimes referred to as Looked After Children) are children who are in the care or interim care of a local authority pursuant to S31 & S38 of the Children Act 1989 who are accommodated by a local authority, pursuant to S20 of the Children Act 1989.
- (2) Baptised Catholic children are those with a certificate of baptism from a Roman Catholic parish or a parish of an Oriental Rite Church in communion with the See of Rome and those Roman Catholic catechumens who have a certificate of enrolment in the Catechumenate.
- (3) Eastern Orthodox children are those with a certificate of baptism from an Eastern Orthodox parish.
- (4) A sibling is a person who has the same natural father or mother or legal guardian as a student on the roll of the academy at the time of admission and who shares permanent domicile with that parent/legal guardian and that student.

### **Operation of waiting lists**

8. Subject to any provisions regarding waiting lists in the LEA's co-ordinated admission scheme, the Academy will operate a waiting list. Where in any year the St Matthew Academy receives more applications for places than there are places available, a waiting list will operate until a month after the normal annual admission date. This will be maintained by the St Matthew Academy and it will be open to any parent to ask for his or her child's name to be placed on the waiting list, following an unsuccessful application.

9. Children's position on the waiting list will be determined solely in accordance with the oversubscription criteria set out in paragraphs 7a - g of this Annex. Where places become vacant they will be allocated to children on the waiting list in accordance with the oversubscription criteria.



### **Arrangements for appeals panels**

10. Parents will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the St Matthew Academy. The Appeal Panel will be independent of the Academy. The arrangements for Appeals will be in line with the Code of Practice on School Admission Appeals published by the Department for Education and Skills as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel will be made in accordance with the Code of Practice on School Admission Appeals and is binding on all parties. The Academy will prepare guidance for parents about how the appeals process will work and provide parents with a named contact who can answer any enquiries parents may have about the process.

### **Arrangements for admitting pupils to other year groups, including to replace any pupils who have left the St Matthew Academy**

11. Subject to any provisions in the LEA's co-ordinated admission arrangements relating to applications submitted for years other than the normal year of entry, the Academy will consider all such applications and if the year group applied for has a place available, admit the child. If more applications are received than there are places available, the oversubscription criteria shall apply. Parents whose application is turned down are entitled to appeal.

### **Arrangements for admission of pupils as the St Matthew Academy builds to its full capacity**

12. The St Matthew Academy will open on 1 September 2007 with a Published Admission Number relating solely to pupils in Year R and Year 7. Pupils in subsequent Years will have been transferred automatically from the predecessor schools, Our Lady of Lourdes Primary School and St Joseph's Academy, which will close on 31 August 2007.

13. During the period from 1 September 2007 to 1 September 2014 to the St Matthew Academy there will not be a Published Admission Number against which to consider applications for admission to all year groups. Initially in September 2007 there will be ten such Year groups reducing by two in each subsequent academic year. Girls will not be admitted into existing boys single sex-year groups

14. Admission to Year groups without a Published Admission Number will be based upon the size of teaching groups already existing in the St Matthew Academy and the efficient use of resources.

15. There will be a right of appeal to the Independent Appeal Panel for unsuccessful applicants.

## **II: ANNUAL PROCEDURES FOR DETERMINING ADMISSION ARRANGEMENTS**

### **Consultation**

16. The St Matthew Academy will consult each year on its proposed admission arrangements.

17. The St Matthew Academy will consult by 1 March:

- (a) The Archdiocese of Southwark Commission for Schools and Colleges;
- (b) Lewisham LEA;
- (c) Any other admission authorities for primary and secondary schools maintained by Lewisham LEA
- (d) any LEA which maintains a primary school within 2 miles of the Academy for the primary section and a secondary school within 5 miles for the secondary section in respect of which it is not the admission authority;
- (e) Any other governing body for primary and secondary schools (as far as not falling within paragraph (b) located within the relevant area for consultation.

### **Determination and publication of admission arrangements**

18. Following consultation, the St Matthew Academy will consider comments made by those consulted. The St Matthew Academy will then determine its admission arrangements by 15 April of the relevant year and notify those consulted what has been determined.

### **Publication of admission arrangements**

19. The St Matthew Academy will publish its admission arrangements each year once these have been determined, by:

- a) copies being sent to primary and secondary schools in the Lewisham LEA;
- b) copies being sent to the offices of the Lewisham LEA;
- c) copies being sent to the Archdiocese of Southwark Commission for Schools & Colleges;
- d) copies being made available without charge on request from the Academy;
- e) copies being sent to public libraries in the area of the Lewisham LEA for the purposes of being made available at such libraries for reference by parents and other persons.

20. The published arrangements will set out:

- a) the name and address of the Academy and contact details;

- b) a summary of the admissions policy, including oversubscription criteria;
- c) a statement of any religious affiliation;
- d) numbers of places and applications for those places in the previous year;
- e) arrangements for hearing appeals.

### **Representations about admission arrangements**

21. Where any of those bodies that were consulted, or that should have been consulted, make representations to the St Matthew Academy about its admission arrangements, the St Matthew Academy will consider such representations before determining the admission arrangements. Where the Academy has determined its admission arrangements and notified all those bodies whom it has consulted and any of those bodies object to the Academy's admission arrangements they can make representations to the Secretary of State. The Secretary of State will consider the representation and in so doing will consult the St Matthew Academy. Where he judges it appropriate, the Secretary of State may direct the St Matthew Academy to amend its admission arrangements.

22. Those consulted have the right to ask the St Matthew Academy to increase its proposed Published Admissions Number for any year. Where such a request is made, but agreement cannot be reached locally, they may ask the Secretary of State to direct the St Matthew Academy to increase its proposed Published Admissions Number. The Secretary of State will consult the St Matthew Academy and will then determine the Published Admission Number.

23. In addition to the provisions at paragraphs 3 and 4 above, the Secretary of State may direct changes to the St Matthew Academy's proposed admission arrangements and, in addition to the provisions above, the Secretary of State may direct changes to the proposed Published Admissions Number.

### **Proposed changes to admission arrangements by the St Matthew Academy after arrangements have been published**

24. Once the admission arrangements have been determined for a particular year and published, the St Matthew Academy will propose changes only if there is a major change of circumstances. In such cases, the St Matthew Academy must notify those consulted under paragraph 17 above of the proposed variation and must then apply to the Secretary of State setting out:

- a) the proposed changes;
- b) reasons for wishing to make such changes;
- c) any comments or objections from those entitled to object.

**Need to secure Secretary of State's approval for changes to admission arrangements**

25. The Secretary of State will consider applications from the St Mathew Academy to change its admission arrangements only when the St Matthew Academy has notified and consulted the proposed changes as outlined at 17 - 19 above.
26. Where the St Matthew Academy has consulted on proposed changes the St Matthew Academy must secure the agreement of the Secretary of State before any such changes can be implemented. The St Matthew Academy must seek the Secretary of State's approval in writing, setting out the reasons for the proposed changes and passing to him any comments or objections from other admission authorities/other persons.
27. The Secretary of State can approve, modify or reject proposals from the St Matthew Academy to change its admission arrangements.
28. Records of applications and admissions shall be kept by the St Matthew Academy for a minimum period of ten years and shall be open for inspection by the Secretary of State.

## **Annex 3**

### **Arrangements for pupils with SEN and disabilities at the St Matthew Academy**

#### **Duty to have regard to the Code of Practice and other guidance**

1. The Academy shall have regard to the Special Educational Needs Code of Practice (2001) and any guidance issued by the Secretary of State relating to sections 316 and 316A of the Education Act 1996.

#### **Duties in relation to pupils with SEN**

2. The governors of the Academy shall designate a person, who may be the headteacher, the chair of governors or another governor as appropriate, who shall be the responsible person for the purposes of the following duties in relation to pupils with SEN.

3. The governors of the Academy shall:

- use their best endeavours, in exercising their functions in relation to the school, to secure that, if any registered pupil has special educational needs, the special educational provision which the pupil's learning difficulty calls for is made;
- secure that, where the responsible person has been informed by the local education authority that a registered pupil has special educational needs, those needs are made known to all who are likely to teach the pupil;
- secure that the teachers in the school are aware of the importance of identifying, and providing for, those registered pupils who have special educational needs; and
- consult the local education authority and the governing bodies of other schools in the area, to the extent that this is necessary for co-ordinating provision for pupils with SEN.

4. Where a child who has special educational needs is being educated in the Academy, those concerned with making special educational provision for the child shall secure, so far as is reasonably practicable and is compatible with:

- (a) the child receiving the special educational provision which his learning difficulty calls for,
- (b) the provision of efficient education for the children with whom he will be educated,
- (c) the efficient use of resources and
- (d) that the child engages in the activities of the school together with children who do not have SEN.

5. The Academy prospectus shall include details of the governing body's policy for pupils with SEN and in particular shall include the information specified in Schedule 1 to the Education (Special Educational Needs) (Information) Regulations 1999 as amended or re-enacted from time to time. It shall also include details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Disability Discrimination Act 1995).

### **Admissions**

6. The Academy shall ensure that pupils with SEN are admitted on an equal basis with others in accordance with its admissions policy.

7. Where a local education authority proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, the Academy shall consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy shall have regard to the relevant guidance issued by the Secretary of State to maintained schools. In the event of any disagreement between the Academy and the local education authority over the proposed naming of the Academy in a statement, the Academy may ask the Secretary of State to determine whether the Academy should be named. The Secretary of State's determination shall be final.

8. Where the Academy has consented to be named in a child's statement of SEN, or the Secretary of State has determined that it should be named, the Academy shall admit the child.

## **ANNEX 4**

### **Serious incidents of misbehaviour leading to fixed period or permanent exclusion**

1. In discharging their duties the Head and Governors of the St Matthew Academy will have regard to the Secretary of State's guidance on exclusions<sup>1</sup> as if the Academy were a maintained school, except that:

- references to the maintaining LEA in paragraph 26(c) of the guidance should be construed as a references to the LEA in which an excluded child is resident;
- the Academy, and not the LEA, is responsible for making arrangements for independent appeal panels to hear appeals against permanent exclusions where the governors do not direct reinstatement (see paragraph 35 and part 5 of the guidance, and below);
- the governors are not expected to seek the advice of an LEA officer when considering an exclusion (paragraph 73 of the guidance), although an LEA officer may attend any meeting to consider an exclusion at the request of a parent; and
- part 8 of the guidance (arrangements for money to follow pupils who have been permanently excluded from school) does not apply.

#### **Constitution and conduct of independent appeal panels**

2. The Academy will be responsible for carrying out the functions assigned to the LEA in part 5 of the guidance with regard to the management of the appeal procedure. Appeals panels must be impartial and constituted in accordance with the detailed provisions of paragraphs 95-97 of the guidance. The Academy will arrange suitable training for appeal panel members and clerks.

3. The appeal panel's decision is final and binding on the Academy. A parent may seek a judicial review of a panel's decision. A parent may not, however, appeal to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by LEAs.

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<sup>1</sup> References in this annex to the Secretary of State's guidance are to "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfES website at:  
<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance/>. The guidance may be subject to amendment, and the Academy is required to have regard to the guidance as it stands at any given time.